



Fast Track Proposed Regulation Agency Background Document

Agency name	Virginia Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-521-10 et seq.
Regulation title	Regulations Governing Reduction of State Aid When Length of School Term Below 180 Teaching Days or 990 Teaching Hours
Action title	Minor revision to regulation
Date this document prepared	March 31, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The *Regulations Governing Reduction of State Aid When Length of School Term Below 180 Teaching Days or 990 Teaching Hours* (8 VAC 20-521-10 et seq.) became effective on September 15, 2006. The regulations, at 8 VAC 20-521-60, require local school division superintendents to certify by April 15 of each school year that they have read and complied with the provisions of the regulations and are implementing a plan for making up any missed time that has not been waived in accordance with the regulations.

Currently, the Virginia Department of Education requires local school boards and superintendents to submit several reports and certifications throughout the school year. In an effort to make the system of reporting and certifying more effective and efficient, many of the reports and certifications are available online and may be completed and sent to the department via electronic mail. In a further effort to assist both the school superintendents and department staff, some of these reports and certifications are being combined.

As noted above, this regulation requires local school divisions to certify by April 15 of each year that they have read and complied with the provisions of the regulation and are implementing a plan for making up any missed time that has not been waived in accordance with the regulations. The proposed amendment

to these regulations is to revise the language of 8 VAC 20-521-60 that states “shall certify by April 15 of each school year” to “shall certify annually, at a time and in a form prescribed by the Virginia Department of Education.” This revision will permit this certification to be added to the Collection of Data Relative to Compliance with the Standards of Quality and Other Certifications, which is due by the end of May each year.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

This regulation became effective on September 15, 2006. The Board of Education authorized the Department of Education to proceed with the fast track revision to the regulation at its April 24, 2008 meeting.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Section 22.1-16 of the Code of Virginia provides that “The Board of Education may adopt bylaws for its own governance and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of this title.” Additionally, § 22.1-98 of the Code of Virginia prescribes the legal requirements that are the basis for this regulation.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Currently, the Virginia Department of Education requires local school boards and superintendents to submit several reports and certifications throughout the school year. In an effort to make the system of reporting and certifying more effective and efficient, many of the reports and certifications are available online and may be completed and sent to the department via electronic mail. In a further effort to assist both the school superintendents and department staff, some of these reports and certifications are being combined. This proposal will permit the certification required by this regulation to be added to the Collection of Data Relative to Compliance with the Standards of Quality and Other Certifications, which is due by the end of May each year.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

This revision is non-controversial in nature. It does not require any additional reporting and, in fact, permits local school divisions to combine the certification already required by this regulation with another certification that is required by the end of May each year. It should, therefore, have a positive administrative impact on local school divisions.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

As noted above, this regulation requires local school divisions to certify by April 15 of each year that they have read and complied with the provisions of the regulation and are implementing a plan for making up any missed time that has not been waived in accordance with the regulations. The proposed amendment to these regulations is to revise the language of 8 VAC 20-521-60 that states "shall certify by April 15 of each school year" to "shall certify annually, at a time and in a form prescribed by the Virginia Department of Education." This revision will permit this certification to be added to the Collection of Data Relative to Compliance with the Standards of Quality and Other Certifications, which is due by the end of May each year.

Issues

Please identify the issues associated with the proposed regulatory action, including:
1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
3) *other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

There are no disadvantages to the public or the Commonwealth. The primary advantage of this regulatory action is that school divisions will be able to combine this certification requirement with another certification requirement by answering one additional question. It should have a positive administrative impact on local school divisions. It will also have a positive impact at the state level because of the increased efficiency in determining compliance with this certification at the same time compliance with the other certification requirements is determined.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements. This regulation concerns compliance with § 22.1-98 of the Code of Virginia.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

Local school boards and school divisions will be affected.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The purpose of the certification in this regulation is to ensure compliance with § 22.1-98 of the Code of Virginia. The purpose of the proposed change to the date of the certification is the consolidation of compliance reporting requirements.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	None
Projected cost of the regulation on localities	None
Description of the individuals, businesses or other entities likely to be affected by the regulation	Local school divisions
Agency’s best estimate of the number of such	132 local school divisions; no businesses

<p>entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	None

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The only viable alternative is to leave the requirement that local school divisions certify by April 15 of each year that they have read and complied with the provisions of the regulation and are implementing a plan for making up any missed time that has not been waived in accordance with the regulations. The proposed amendment to these regulations is to revise the language of 8 VAC 20-521-60 that states “shall certify by April 15 of each school year” to “shall certify annually, at a time and in a form prescribed by the Virginia Department of Education.” This revision will permit this certification to be added to the Collection of Data Relative to Compliance with the Standards of Quality and Other Certifications, which is due by the end of May each year thus making the certification requirement less cumbersome and more efficient.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed change to this regulation will have no impact on the family.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
8 VAC 20-521- 60	Same	Local school division superintendents shall certify by April 15 of each school year that they have read and complied with these provisions and are implementing a plan for making up any missed time that has not been waived in accordance with these regulations.	The language is being changed to eliminate the due date of April 15 and require local school divisions to, instead, make the certification annually. Therefore, the language will read, "Local school division superintendents shall certify annually, at a time and in a form prescribed by the Virginia Department of Education, that they have read and complied with these provisions and are implementing a plan for making up any missed time that has not been waived in accordance with these regulations."

Enter any other statement here